IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 6TH NOVEMBER 2007 / 15TH KARTHIKA 1929

RPFC.No. 109 of 2003(A)

M.C.NO.298/2001 OF FAMILY COURT, MANJERI

REVISION PETITIONER/ RESPONDENT

KUTTIPURATH PRADEEP @ RAJU,
S/O. PARANGADAN, AMBALAKANDI VEEDU,
THURAKKAL P.O., KONDOTTY, MALAPPURAM DISTRICT.

BY ADV. SRI.DEVAPRASANTH.P.J.

RESPONDENTS: PETITIONERS
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1. MATTAPPADAN SINDHU, D/O. MATTAPPADAN
AMBALI, UZHALANKUNNU, PALAKKAD, THRIPPANACHY P.O.,
MALAPPURAM DISTRICT

2. THEERTHAMOL @ MINNU (MINOR)
AGED 5 YEARS, (REPRESENTED BY GUARDIAN-MOTHER
1ST RESPONDENT SINDHU)

BY ADV. SRI.BABU S. NAIR

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD ON 06/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J.

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R.P.(F.C).No.109 of 2003-C

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Dated this the 6th day of November, 2007

O R D E R

The revision petitioner is the respondent husband in M.C.No.298/2001 in the file of the Family Court, Manjeri. The court below had awarded maintenance at the rate of Rs.400/- per month for the first respondent herein/wife and for the minor child.

2. It is contention of the revision petitioner/respondent that the matter was adjudicated without hearing him and further that he was injured in an accident and hence, he could not appear before the court below. The revision petitioner has also contended that the first respondent/petitioner is already married to one Vinod Kumar on 24/04/1994 and that the said marriage was not dissolved and hence, the alleged marriage between the revision petitioner and respondent is null and void. The revision petitioner has also produced the judgment of the family court in O.P.No.221/2003 which was pronounced subsequent to the order in M.C. On the petition filed by the revision petitioner the court in the above original petition has declared the marriage between the petitioner and the respondent as null and void under Section 5(i) of the Hindu Marriage Act.

3. The counsel for the first respondent was not in a position to get instructions as to whether any appeal has been filed over the order in O.P.No.221/2003. I find that paternity is admitted. In the circumstances the amount of maintenance ordered to the second petitioner child in M.C.No.298/2001 is confirmed. The first respondent herein will be entitled to receive the amount of maintenance ordered for the second petitioner child. With respect to the right of the first respondent wife, the order is set aside and the matter is remanded back to the family court to dispose of the matter on merits. The matter will stand posted before the family court on 05/12/2007.

The R.P.(F.C) is disposed of as above.

K.R.UDAYABHANU,
Judge

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